

Appl. No. 10/657, 002
Amdt. Dated 10/01/2004
Reply to Office Action of 07/02/2004

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application. The abstract has been amended to remove the phrase "The apparatus includes" in line 1.

The examiner has rejected independent claims 1, 6 and 10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,403,302 to Birch. Applicant respectfully submits the examiner has mischaracterized the Burch reference.

Neither Burch nor any prior art of record discloses, inter alia, "a substantially flat section" and "an arcuate section integral with said flat section", as recited in applicant's original independent claims. Burch fails to disclose applicant's claimed structure because it discloses a cylindrical handle section 16 (see FIG. 1), as opposed to applicant's substantially flat section. Also, Burch's arcuate section 10 is not integral with a flat section, rather it is bonded or fastened to its handle section 16 (see FIG. 1, column 2, lines 30-35).

Furthermore, applicant respectfully submits the examiner has used improper hindsight reconstruction to teach the claimed invention. A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. See *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986). Applicant's claimed flat section has "a plurality of holes disposed between the front and rear portions." There is no suggestion, teaching or motivation in Burch to form holes in its handle section 16 because Burch employs integrated elements 17 extending from arcuate section 10 to support the apparatus against the wall (see FIG. 1, column 2, lines 36-48). Any holes drilled in Burch's handle section would be unnecessary. Accordingly, Burch teaches away from applicant's claimed invention by providing alternate means to support the apparatus against a wall.

In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance. Accordingly, applicant respectfully requests that a

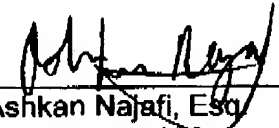
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timely Notice of Allowance be issued in this case.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Respectfully submitted,
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By


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